

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow.

Claims 1-26 are now pending in this application.

**Rejection under 35 U.S.C. § 103**

In Section 4 of the Office Action, Claims 1-26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,642,171 (Baumgartner) in view of U.S. Patent 6,188,396 (Boezeman et al.). Applicants respectfully traverse the rejection. Neither Baumgartner nor Boezeman et al. alone or in combination disclose, teach, or suggest the claimed invention as recited in Claims 1-26.

Claims 1-20. Claims 2-9 depend from Claim 1. Claims 11-14 depend from Claim 10. Claims 16-20 depend from Claim 15. Claim 1, as amended, recites:

receiving a reference indicating a location in a recorded signal, the reference being indicative of a desired audio tempo change location in the recorded signal; and

providing a tempo for an audio recording to be at least partially included in the recorded signal, the tempo being adjusted to fit the audio recording to a section of the recorded signal marked by the reference.

Claim 10, as amended, recites:

means for receiving a reference indicating a location in a recorded signal; and

means for providing a tempo for an audio recording segment to be included in the recorded signal, the tempo being adjusted to fit the audio recording segment to a section of the recorded signal marked by the reference.

Claim 15, as amended, recites:

receive a reference indicating a location in a recorded signal; and

provide a tempo for an audio recording segment to be included in the recorded signal, the tempo being adjusted to fit the audio recording segment to a section of the recorded signal marked by the reference.

With respect to claims 1, 10, and 15, the Examiner states that Baumgartner “does not disclose the limitation of providing a tempo for an audio to be at least partially included in the recording signal, the tempo being provided to fit the audio recording to a section of the recorded signal marked by the reference.” The Examiner points to Boezeman et al. as providing this teaching. Specifically, the Examiner states:

Boezeman discloses the limitation of providing a tempo for an audio to be at least partially included in the recording signal, the tempo being provided to fit the audio recording to a section of the recorded signal marked by the reference as the technique of a Sequence Editor which during the course of the animation, a pieces of audio is also played. At the simulation ending of the animation and audio, a video plays (see col. 6, lines 58-62 and see Fig. 3-17).

Applicants respectfully disagree.

There is no suggestion or teaching in Boezeman et al. of performing the operation of “the tempo being adjusted to fit the audio recording to a section of the recorded signal marked by the reference.” Boezeman et al. only discloses “[d]uring the course of the animation, a piece of audio is also played.” (see column 6, lines 57-58, Figs. 6-17.) There is absolutely no disclosure, suggestion, or teaching in Boezeman et al. of “the tempo being adjusted to fit the audio recording to a section of the recorded signal marked by the reference.” Boezeman et al. further discloses “that the animation player part and the audio player part will start and stop simultaneously. Since the audio was only about 30 seconds in length, the *audio will obviously have to be replayed* to reach the 100 second length of the animation.” (see column 7, lines 61-65 and Fig. 10, Emphasis added). Thus, Boezeman et al. teaches away from “the tempo being adjusted to fit the audio recording to a section of the recorded signal marked by the reference.” Boezeman et al. **replays the recording at the same tempo** instead of “the tempo being adjusted to fit the audio recording

to a section of the recorded signal marked by the reference as recited, for example, by Applicant's claim 1."

Boezeman et al. further discloses "it may be desired to have the second half of the video played at twice the normal speed. ... To accomplish this, a developer would select the rate spacer .... Although it is not part of the present invention, ... a dialog box would appear to query the developer for the rate required. The second half of the video would then play at the new rate" (see column 9, lines 56-68, Fig. 15). Again, even with respect to the video, there is no teaching or suggestion of "the tempo being adjusted to fit the audio recording to a section of the recorded signal marked by the reference." The developer is allowed to specify a new rate for the media, however, the rate is not "adjusted to fit the audio recording to a section of the recorded signal marked by the reference" as required, for example, by Applicant's claim 1.

Neither Baumgartner nor Boezeman et al. disclose, suggest, or teach "providing a tempo for an audio recording to be at least partially included in the recorded signal, the tempo being adjusted to fit the audio recording to a section of the recorded signal marked by the reference." As a result, Baumgartner and Boezeman et al. fail to disclose, suggest, or teach all of the limitations of Claims 1-20. An obviousness rejection cannot be properly maintained where the references used in the rejection do not disclose all of the recited claim elements. Applicants respectfully request withdrawal of the rejection of Claims 1-20.

Claims 21-26. Claims 22-26 depend from Claim 21. Claim 21 as amended recites:

a reference marker which is configured to be selectively located by a user, the reference marker being used to adjust the tempo of at least a portion of the first audio recording, the tempo adjustment being provided to fit the first audio recording to a section of the second audio or video recording.

As amended, Claim 21 also recites the "adjust the tempo" limitation discussed above with respect to claims 1, 10 and 15. As related above, neither Baumgartner nor Boezeman et al. disclose, suggest, or teach "the tempo adjustment being provided to fit the first audio recording to a section of the second audio or video recording." As a result, Baumgartner and Boezeman et al. fail to disclose, suggest, or teach all of the limitations of Claims 21-26. An obviousness rejection

cannot be properly maintained where the references used in the rejection do not disclose all of the recited claim elements. Applicants respectfully request withdrawal of the rejection of Claims 21-26.

For the foregoing reasons, it is submitted that all of the claims that have been examined in this application should be in condition for allowance. The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2350.

Respectfully submitted,

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